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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/674,205	10/27/2000	Reinhold Mayr	MAYRRETAL-1	3274

7590

03/22/2004

Collard & Roe
1077 Northern Boulevard
Roslyn, NY 11576

EXAMINER

PETERSON, KENNETH E

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/674,205

Applicant(s)

MAYR ET AL.

Examiner

Kenneth E Peterson

Art Unit

3724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 6-10 is/are pending in the application.
- 4a) Of the above claim(s) 7,9 and 10 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 6 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

1. Applicant's appeal brief, received 28 November 03, has been entered. It has been determined that the final rejection is non-optimal, and it is hereby withdrawn.

Hereafter is a new, non-final rejection

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over the German patent to Wallers (DE003406455A1) in view of Gebhart and Murray.

Waller's shows a cantilevered saw blade having all of the recited limitations including a saw frame (4), a slider crank drive (6), a feeder conveyor (11), a cantilevered blade (2), an conveyor motor (15), a controlling system (21) having a "stored control program" (39) and a signal transmitter (e.g. 9,26).

Waller's elements are all mechanical. However, it has long been held to be obvious to update old mechanical machinery with modern electronics, usually because the electronics are cheaper and need not be specially manufactured for the given situation, but instead need only be programmed. Gebhart shows that it is well known to have a sensor (67) to sense the bottom stroke of the blade, and to send an electronic signal to a controller to cause incremental workfeed (lines 1-25, column 1).

It would have been obvious to one of ordinary skill in the art to one of ordinary skill to have replaced Wallers' mechanical system with an electronic sensor, as taught

by Gebhart, in order to update Wallers' device with the cheaper and more flexible electronics.

Neither Waller's controller (21) nor Gebhart's controller (line 9 column 8) is mentioned as a being a programmed computer controller. Examiner takes Official Notice that it is old and well known to use a programmed computer to control incremental workfeed into a saw. An example of such is Murray on lines 61-65 of column 2. It would have been obvious to one of ordinary skill in the art to have further modified Wallers by making the controller a programmed computer controller, as taught by Murray, in order to update Wallers' device with the cheaper and more flexible electronics.

4. Claim 8 is allowed.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ken Peterson at 703-308-2186, who can normally be reached on Monday thru Thursday between 7am and 4pm. In lieu of mailing, it is encouraged that all formal responses be faxed to 703-872-9306.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on 703-308-1082. Any inquiry of a general nature or relating to the status of this application should be directed to the receptionist whose telephone number is 703-308-1148.

kp December 17, 2003


Allan N. Shoap
Supervisory Patent Examiner
Group 3700


KENNETH E. PETERSON
PRIMARY EXAMINER